

### § 303.527

(c) The basic requirements that must be met by any individual or organization seeking to provide these services for the lead agency.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(11))

NOTE: In implementing the statewide system, States may elect to continue using agencies and individuals in both the public and private sectors that have previously been involved in providing early intervention services, so long as those agencies and individuals meet the requirements of this part.

### § 303.527 Payor of last resort.

(a) *Nonsubstitution of funds.* Except as provided in paragraph (b)(1) of this section, funds under this part may not be used to satisfy a financial commitment for services that would otherwise have been paid for from another public or private source, including any medical program administered by the Secretary of Defense, but for the enactment of part C of the Act. Therefore, funds under this part may be used only for early intervention services that an eligible child needs but is not currently entitled to under any other Federal, State, local, or private source.

(b) *Interim payments—reimbursement.*

(1) If necessary to prevent a delay in the timely provision of services to an eligible child or the child's family, funds under this part may be used to pay the provider of services, pending reimbursement from the agency or entity that has ultimate responsibility for the payment.

(2) Payments under paragraph (b)(1) of this section may be made for—

(i) Early intervention services, as described in § 303.12;

(ii) Eligible health services (see § 303.13); and

(iii) Other functions and services authorized under this part, including child find and evaluation and assessment.

(3) The provisions of paragraph (b)(1) of this section do not apply to medical services or “well-baby” health care (see § 303.13(c)(1)).

(c) *Non-reduction of benefits.* Nothing in this part may be construed to permit a State to reduce medical or other assistance available or to alter eligi-

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bility under title V of the Social Security Act (SSA) (relating to maternal and child health) or title XIX of the SSA (relating to Medicaid for children eligible under this part) within the State.

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(Authority: 20 U.S.C. 1440)

NOTE: The Congress intended that the enactment of part C not be construed as a license to any agency (including the lead agency and other agencies in the State) to withdraw funding for services that currently are or would be made available to eligible children but for the existence of the program under this part. Thus, the Congress intended that other funding sources would continue, and that there would be greater coordination among agencies regarding the payment of costs.

The Congress further clarified its intent concerning payments under Medicaid by including in section 411(k)(13) of the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100-360) an amendment to title XIX of the Social Security Act. That amendment states, in effect, that nothing in this title shall be construed as prohibiting or restricting, or authorizing the Secretary of Health and Human Services to prohibit or restrict, payment under subsection (a) of section 1903 of the Social Security Act for medical assistance for covered services furnished to an infant or toddler with a disability because those services are included in the child's IFSP adopted pursuant to part C of the Act.

[58 FR 40959, July 30, 1993, as amended at 63 FR 18296, Apr. 14, 1998]

### § 303.528 Reimbursement procedure.

Each system must include a procedure for securing the timely reimbursement of funds used under this part, in accordance with § 303.527(b).

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(12))

### REPORTING REQUIREMENTS

### § 303.540 Data collection.

(a) Each system must include the procedures that the State uses to compile data on the statewide system. The procedures must—

(1) Include a process for—

(i) Collecting data from various agencies and service providers in the State;

(ii) Making use of appropriate sampling methods, if sampling is permitted; and

(iii) Describing the sampling methods used, if reporting to the Secretary; and

(2) Provide for reporting data required under section 618 of the Act that relates to this part.

(b) The information required in paragraph (a)(2) of this section must be provided at the time and in the manner specified by the Secretary.

(Approved by the Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(14))

[58 FR 40959, July 30, 1993, as amended at 63 FR 18296, Apr. 14, 1998]

#### USE OF FUNDS FOR STATE ADMINISTRATION

#### § 303.560 Use of funds by the lead agency.

A lead agency may use funds under this part that are reasonable and necessary for administering the State's early intervention program for infants and toddlers with disabilities.

(Authority: 20 U.S.C. 1433, 1435(a)(10))

### Subpart G—State Interagency Coordinating Council

#### GENERAL

#### § 303.600 Establishment of Council.

(a) A State that desires to receive financial assistance under this part shall establish a State Interagency Coordinating Council.

(b) The Council must be appointed by the Governor. The Governor shall ensure that the membership of the Council reasonably represents the population of the State.

(c) The Governor shall designate a member of the Council to serve as the chairperson of the Council or require the Council to do so. Any member of the Council who is a representative of the lead agency designated under § 303.500 may not serve as the chairperson of the Council.

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(Authority: 20 U.S.C. 1441(a))

NOTE: To avoid a potential conflict of interest, it is recommended that parent rep-

resentatives who are selected to serve on the Council not be employees of any agency involved in providing early intervention services.

It is suggested that consideration be given to maintaining an appropriate balance between the urban and rural communities of the State.

[58 FR 40959, July 30, 1993, as amended at 63 FR 18296, Apr. 14, 1998]

#### § 303.601 Composition.

(a) The Council must be composed as follows:

(1)(i) At least 20 percent of the members must be parents, including minority parents, of infants or toddlers with disabilities or children with disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities.

(ii) At least one member must be a parent of an infant or toddler with a disability or a child with a disability aged six or younger.

(2) At least 20 percent of the members must be public or private providers of early intervention services.

(3) At least one member must be from the State legislature.

(4) At least one member must be involved in personnel preparation.

(5) At least one member must—

(i) Be from each of the State agencies involved in the provisions of, or payment for, early intervention services to infants and toddlers with disabilities and their families; and

(ii) Have sufficient authority to engage in policy planning and implementation on behalf of these agencies.

(6) At least one member must—

(i) Be from the State educational agency responsible for preschool services to children with disabilities; and

(ii) Have sufficient authority to engage in policy planning and implementation on behalf of that agency.

(7) At least one member must be from the agency responsible for the State governance of health insurance.

(8) At least one member must be from a Head Start agency or program in the State.

(9) At least one member must be from a State agency responsible for child care.

(b) The Council may include other members selected by the Governor, including a representative from the BIA